

MINUTES OF THE 14TH IFCAI GENERAL ASSEMBLY

held at the Indian Council of Arbitration, Federation House, Tansen Marg, New Delhi
on the occasion of the 9th Biennial IFCAI Conference

2.00pm, 21 October 2007

PRESENT: Ulf Franke (President) (Stockholm Chamber)
M.I.M Aboul-Enein (Cairo Centre)
Stefano Azzali (Milan Chamber of Arbitration)
Lawrence Boo (SIAC)
Diana Droulers (Caracas Chamber of Commerce)
Michael Forbes-Smith (CIArb)
Rainer Füg (Swiss Chambers Court of Arbitration)
Maya Ardilia Husin (KLRCA)
Claudia Kälin-Nauer (ASA)
Alexander Komarov (ICAC, and Maritime Arb. Comm., Moscow)
GK Kwatra (Indian Council of Arbitration)
Gustaf Möller (Central Chamber of Commerce of Finland)
Piotr Nowaczyk (Court of Arb. Polish Chamber of Commerce)
Paula Paloranta (Central Chamber of Commerce of Finland)
Ajay Thomas (SIAC)
Pi-Song Tsai (Arbitration Association ROC, Taiwan)
Anne Marie Whitesell (ICC)
Adrian Winstanley (LCIA)

1. **WELCOME**

1.1 The President welcomed IFCAI members and offered a vote of thanks and appreciation (echoed by all members) to the Indian Council of Arbitration, and to Mr Kwatra, in particular, for the first class organisation and arrangements for the 9th IFCAI conference, held over the previous day and a half, and the judicial colloquium that had preceded it.

1.2 The number of delegates had far exceeded expectation and the quality of the papers presented, and the level of debate that had followed, had been to a very high standard.

1.3 The President welcomed Mr Justice AK Sikri, of the Delhi High Court, as a guest to this meeting. Mr Sikri added his words of appreciation to ICA, and to Mr Kwatra, and said that, in his view, the IFCAI conference had served to remove many misgivings on the side, both of the Indian judiciary (which had been well represented) and on the side of the practitioners in, and users of, arbitration, and that the legal and business communities should come to regard the Indian judiciary as largely supportive of arbitration.

1.4 There followed a presentation of souvenir gifts from ICA to each of the delegates to the General Assembly, for which the meeting again expressed its thanks to Mr Kwatra.

2. **ADOPTION OF THE AGENDA**

2.1 The agenda for the General Assembly, which had been circulated earlier and was now tabled, was adopted by unanimous agreement.

3. **MINUTES OF THE 13TH GENERAL ASSEMBLY**

3.1 The President noted that the Minutes of the 13th General Assembly, held in Washington, 2 June 2005, and circulated on 22 June 2005, had inadvertently been headed the 12th General Assembly.

3.2 Subject to the correction of that error, the Minutes were approved by the General Assembly and signed by the President.

4. **INTERIM MEETING OF IFCAI MEMBERS**

4.1 The IFCAI Secretary having been unable to attend the interim meeting, held in Paris on 17 October 2006, Minutes of that meeting had not been prepared.

4.2 The President confirmed, however, that the meeting had been well attended and expressed his thanks to Anne Marie Whitesell, and to the ICC, for having hosted it.

4.3 Topics of discussion had included issues of confidentiality, conflicts and the IBA guidelines; and interim measures. Dr Aboul-Enein noted that the purpose of these interim meetings was an exchange of views and that they were not the occasion either for voting or for the taking of decisions that needed to be put on the record.

5. **9TH BIENNIAL IFCAI CONFERENCE**

5.1 The President referred the meeting to the introductory remarks that he, and Mr Justice Sikri, had made concerning the conference of the preceding days and said that he need only repeat that it had been an outstanding success on all levels.

5.2 Following discussion, it was agreed that, although the written papers submitted by some speakers might be collated into a volume by ICA, and that consideration be given to publishing a more formal and organised book of future IFCAI conferences (as had been done with some in the past) it was generally inadvisable to report what had been said in oral presentations.

5.3 Nonetheless, the IFCAI Council would, in due course, consider options for collating and disseminating both written and oral presentations (the latter possibly through the use of an official rapporteur), with a view to bringing its recommendations to the general membership.

5.4 Mr Kwatra concluded this agenda item by proposing a formal vote of thanks for the IFCAI President for his contribution to the conference; a proposal unanimously adopted by the meeting.

6. **SECRETARY-TREASURER'S REPORT**

6.1 The President asked Adrian Winstanley to up-date the General Assembly on IFCAI's finances and membership.

6.2 Adrian reported a balance on the IFCAI account of a little over US\$102,000, as at mid-September 2007.

6.3 He tabled a report on membership, as at the date of this meeting, showing 42 fully paid-up members of IFCAI and noting that the Swiss Chambers' Court of Arbitration and Mediation, Basel, had succeeded the Zurich Chamber of Commerce, as members No. F/081.

6.4 The 2007 subscriptions of the following 10 members were still outstanding as of this date, though it was hoped that the reminders would prompt the payment of

these arrears; Beijing Conciliation Centre; Camara de Comercio de Caracas; CAMARB, Brazil; CANACO, Mexico; China Maritime Arbitration Commission; CIETAC; Japan Shipping Exchange, Tokyo; Madrid Court of Arbitration; Permanent Arbitration Court of the Mauritius Chamber of Commerce; and Tunis Center for Conciliation and Arbitration.

6.5 The subscriptions of DIAC, Dubai; the Arbitration Court of the Mongolian Chamber of Commerce; the Sri Lanka National Arbitration Centre; the Center for Settlement of Commercial Disputes, Palestine; the Malta Arbitration Centre; and the Arab Association for International Arbitration, Paris, were outstanding for 2006 and 2007, and, under the IFCAI constitution, the membership of these institutions would automatically terminate if the outstanding subscriptions had not been paid by the end of the year.

7. IFCAI ACTIVITIES

Meetings

7.1 The President advised that he was currently discussing with the organisers of the ICCA Congress, in Dublin, in June 2008, whether there might be a joint IFCAI/ICCA session to mark the 50th Anniversary of the New York Convention.

7.2 There would, in any event, be a meeting of the IFCAI Council in Dublin at the time of the ICCA Congress.

10th Biennial Conference and 15th General Assembly, 2009

7.3 The President reported that, at its meeting, earlier in the day, the IFCAI Council had discussed possible venues for the 2009 conference and General Assembly; noting that, in reverse chronological order, the most recent conferences had been held in Delhi (this year), Washington, Vienna, Prague and New York.

7.4 Bahrain, Caracas, London and Tunis had been proposed, at the Council meeting, as possible venues for 2009 and, after discussion, it had been agreed to recommend to the General Assembly that these be held in Tunis, to be hosted by the Tunis Center for Conciliation and Arbitration.

7.5 This recommendation was accepted by the General Assembly and members would be advised of the dates in due course.

IFCAI website

7.6 The President reported that Diana Droulers had kindly offered to take over the set-up and management of the IFCAI website, for which the initial design had been commissioned by Adrian Winstanley.

7.7 Diana said that an attractive and user-friendly website was essential to any modern organisation and that the IFCAI site should be the most effective tool to promote IFCAI itself and its individual members.

7.8 Diana asked all members to email her their full contact coordinates, together with the names of senior Officers and a brief description of their activities and/or their mission statement. Members should also send her the address of their own website, so that links could be established between the IFCAI site and the site of individual members.

7.9 In response to a question from Piotr Nowaczyk as to what had become of the hard copy IFCAI newsletter, there followed a discussion of the relative merits of paper and electronic media and it was, in due course, agreed that the website would be

more accessible to a far wider audience, than the Newsletter, and much better able to keep abreast of the rapid developments in the field of arbitration.

Other IFCAI projects

7.10 The President reported that, at the preceding Council meeting, Stefano Azzali and Lawrence Boo had agreed to be part of an IFCAI Research Committee, to be joined by Jens Bredow, if he was willing to do so.

7.11 The mandate of this committee was to recommend suitable research projects to be undertaken by IFCAI. These recommendations would be brought to the general membership in due course.

7.12 The Council had also discussed the feasibility and desirability of IFCAI applying to UNCITRAL for observer status at the arbitration working group meetings. It had, however, been concluded that, as there would be little prospect of IFCAI members forming a uniform view on key matters and that it would be an unmanageable task to canvas views and to identify what consensus there might be, there was little prospect of meaningful coordinated IFCAI intervention and that the idea should not, therefore, be pursued.

8. CLOSE OF GENERAL ASSEMBLY

8.1 There being no further business for the General Assembly, the assembly was declared closed at 3.05pm.

President

Date

INSTITUTIONAL SECTION

1. Following a short break, Dr Aboul-Enein chaired discussions among institutional members; reminding the meeting that the institutional section of IFCAI comprised of members who administer commercial or investment arbitration, in accordance with their own rules, or the rules of UNCITRAL, and who employ permanent staff for this purpose.

Current developments

2. Following Dr Aboul-Enein's agenda, Dr Füeg reported that the Swiss Chambers' Court of Arbitration and Conciliation had recently adopted mediation rules; whilst Lawrence Boo reported that, in July 2007, SIAC had published new arbitration rules, adopting a number of features from the ICC rules.

The revision of the UNCITRAL Arbitration Rules

3. Dr Aboul-Enein reported, in some detail, on the revision of the UNCITRAL Arbitration Rules, now being undertaken by UNCITRAL Working Group II.

[The paper to which Dr Aboul-Enein spoke is attached to these Minutes.]

Mediation

4. Stefano Azzali reported a remarkable increase in mediation work undertaken by the Milan Chamber of Arbitration and it was agreed, after discussion, that IFCAI members should, in the interests of providing a comprehensive service for their users, consider whether to offer mediation and other ADR services, to the extent that they did not already offer a full range.

5. Michael Forbes-Smith, of CIArb, who had had to leave the meeting before this session, had left a note advising that CIArb now offered mediator training and was interested in developing relationships with other member institutions offering mediation.

Certification

6. It was agreed that the universal certification or accreditation of arbitral institutions was neither desirable nor workable. On the other hand, IFCAI itself should be selective in regard to its membership, such that users could have reasonable confidence in the services provided by any IFCAI member.

7. The meeting of the institutional section concluded at 5.00pm.